



**Ninety-Ninth Legislature - First Session - 2005**  
**Committee Statement**  
**LB 336**

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**Hearing Date:** January 27, 2005

**Committee On:** Natural Resources

**Introducer(s):** (Natural Resources Committee, Engel)

**Title:** Adopt the Public Entities Mandated Project Charges Act

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**Roll Call Vote – Final Committee Action:**

- X   Advanced to General File
  - Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

- 8   Yes                               Senators Hudkins, Kopplin, Kremer, Loudon, McDonald,  
  Schrock, Smith, Stuhr
  - 0   No
  - 0   Present, not voting
  - 0   Absent
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**Proponents:**

Jody Gittins  
Chuck Eldred

Stephen Bruckner

**Representing:**

Introducer  
Omaha Public Power District; Nebraska Power  
Association  
Omaha Public Power District

**Opponents:**

None

**Representing:**

**Neutral:**

Walt Radcliffe

**Representing:**

Nebraska Realtors Association; Nebraska State  
Home Builders; Alltel; Tyson Foods; Nebraska  
Health Care Association; Nebraska Cable  
Television Association

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**Summary of purpose and/or changes:**

LB 336, the Public Entities Mandated Project Charges Act, does the following:

Section 1       Introduces the name of the Act.

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Section 2	Identifies sections 3 through 11, which contain the definitions used in the substantive sections of the Act (sections 12 through 16).
Section 3	Defines “financing costs” for mandated projects as the costs of retiring or refunding a public entity’s debt in connection with the issuance of mandated projects bonds, and costs related to the issuance and servicing of such bonds.
Section 4	Defines “mandate” as a federal or state legal requirement, including licensing requirements and consent orders and agreements involving the United States or the state of Nebraska.
Section 5	Defines “mandated project” to include capital projects at new or existing electric generation, transmission, or distribution facilities, when such projects are undertaken to satisfy a “mandate” (as defined in the Act).
Section 6	Defines “mandated project bonds” as bonds or other instruments issued by a public entity to pay for mandated project costs.
Section 7	Defines “mandated project charge” as a charge paid by public power customers for mandated project costs.
Section 8	Defines “mandated project costs” as those costs incurred in connection with a mandated project, including the payment of debt service on mandated project bonds.
Section 9	Defines “public entity” to include all public power districts, municipalities, and other entities involved in the electric power business in Nebraska.
Section 10	Defines “related operating expenses”, which may be paid from mandated project charges in the event of a bankruptcy court order under 11 U.S.C., Section 928(b).
Section 11	Defines “special revenues”, with reference to the applicable section of the Bankruptcy Code. The definitions for “related operating expenses” and “special revenues” are included to assure bankruptcy protection of the revenue stream established under this Act to pay for mandated project costs.
Section 12	Authorizes a public entity to pay for mandated project costs and financing costs by using a mandated project charge. Describes the process by which the governing board of a public entity elects to use mandated project charges. Specifies that the authorizing resolution of the governing board must include: a description of the mandated project, and why it is mandated; an election to use the mandated project cost structure; authorization to add a separate charge to each customer’s electric service bill for the mandated project charge; adoption of the financial calculation, formula or other method to determine the mandated project charges, including a periodic adjustment method to correct for any over or under collection of such charges. Section 12 also specifies that the financial calculation or formula and allocation of mandated project charges must be decided solely by

the governing board of the public entity, with such charges becoming final once the financial mechanism has been adopted. Section (5) requires that if mandated project bonds are issued in connection with a mandated project, the public entity must enter into a servicing agreement for the bonds, with the public entity serving as a collection agent. Once adopted, mandated project charges are non-bypassable; that is, customers are required to pay as long as they receive electric distribution service from the public entity, and paying the charge is a condition of receiving electric service.

- Section 13 Authorizes public entities to issue mandated project bonds in connection with mandated projects. Specifies that such bonds are secured by and payable from a first lien on the mandated project charges established by the governing body pursuant to Section 12. Any consensual lien or security interest must be created in accordance with the Nebraska Governmental Unit Security Interest Act. Bond proceeds must be applied exclusively to payment of mandated project costs and financing costs. Subsection (2) of Section 13 requires the public entity and its successors to impose and collect mandated charges in order to pay debt service on the bonds. Subsection (2) further specifies that the pledge of mandated project charges by the public entity is irrevocable, and cannot be reduced or impaired by the state or the public entity.
- Section 14 Specifies that mandated project charges are to be applied exclusively to pay mandated project costs and financing costs.
- Section 15 Clarifies that a public entity which undertakes a mandated project is not required to use the mandated project charge process set forth in the Act, because the decision to utilize the structure and method set forth in the Act are discretionary actions of the public entity.
- Section 16 Requires a public entity that is collecting mandated project charges to provide an annual explanation of the charges to its customers.
- Section 17 Provides for liberal construction of the Act to effectuate its purpose.
- Section 18 Severability clause.

**Explanation of amendments, if any:**

None

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**Senator Ed Schrock, Chairperson**